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Written Testimony Supporting House Bill 5550, An Act Concerning Various Revisions to the Education Statutes

Senator Slossberg, Representative Fleischmann, and members of the Education Committee. My name is David McGuire, and I am the Legislative and Policy Director for the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in support of House Bill 5550. Section 13 is an important provision because it would protect students from suspicionless searches.

The ACLU of Connecticut strongly supports liberty and justice for all. This includes the right to privacy and freedom from baseless searches of one's personal information. Students do not check their rights at the schoolhouse door. Requiring a student to sacrifice his or her constitutional right to privacy in order to obtain equal access to education is not only wrong; it is unworthy of a twenty-first century educational system.

Today's schools and students must navigate technology in myriad ways: through school-owned devices in school and at home; through personal devices during lunch or other breaks; through educational apps from third-party companies; and more. Each form of technology presents an opportunity to prepare Connecticut's kids for the future. Each also presents privacy concerns if the data that they collect is not secure and if they are used as another on-ramp for the school-to-prison pipeline. We therefore applaud the committee for taking up the issue of student privacy. By regulating the requirements for searching students' electronic devices, House Bill 5550 protects students' constitutional rights.

The ACLU of Connecticut strongly supports the language in section 13 of this bill that protects students from suspicionless searches, as we have serious constitutional objections to allowing schools to search students' devices without reason. Access to a young person's cell phone, tablet, or laptop means access to their private worlds. These devices are like backpacks, if backpacks contained every note you've passed to a friend, every photo you've taken, every phone call you've made to your parents, and more. Before searching an actual backpack, however, school officials are required to have specific, reasonable suspicion that a student has broken the law or a school rule. Students' electronic devices should be held to the same standard.

Right now, however, Connecticut schools have a patchwork of unequal privacy policies. West Haven High School, for instance, states that students' "electronic devices may be searched as part of any school investigation," and that its more than 1,800 students "should have no expectation of privacy as to any images, messages, or other files such devices might contain." This is a grave violation of students' privacy rights. Other school districts have flawed policies that purport to give school administrators the right to demand the passwords for students'

personal devices without cause.

Preventing schools from conducting suspicionless searches of students' devices will not only uphold students' privacy and Fourth Amendment right to freedom from unreasonable search and seizure, but it also could decrease the chance that a student enters the criminal justice system. In 2013, for instance, Connecticut Voices for Children found that 2,214 Connecticut students were arrested at school, and arrest rates were higher among minority, special education, and low-income students. Nearly one in ten students was arrested for non-violent violations of school policy, such as using profanity. Without protections in place, one could easily imagine a school administrator conducting random searches of students' cell phones and finding profane language. Even if that discovery only led to a suspension or expulsion, rather than an arrest, evidence has shown time and time again that time away from school due to disciplinary action increases a child's risk of entering the criminal justice system later in life. Such potentially life-changing consequences should, at the very least, be based on a reasonable suspicion, not random acts of intrusion.

With House Bill 5550, Connecticut can ensure that its laws parallel the changing faces of education and student safety. We urge you to support this important bill.